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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,537	06/18/2006	Richard Gruber	06-255	4441
34704 7590 03/13/2009 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
PANI, JOHN				
ART UNIT		PAPER NUMBER		
3736				
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03/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/576,537

**Applicant(s)**

GRUBER, RICHARD

**Examiner**

JOHN PANI

**Art Unit**

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-17 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date 4/19/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 15-17 and 25-28) in the reply filed on 12/24/2008 is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-17 and 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15-17 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 186 273 A2 to Gruber et al. ("Gruber") in view of US Pat. No. 5,345,362 to Winkler ("Winkler").

In reference to Claim 15

Gruber teaches a device (10) for vitality diagnostics on a test person comprising an output unit (18) associated with a data processing device (12) which is constructed to output a visual and/or acoustic signal for a test person, as well as an actuating and sensor device (18, 20, 22, 24, 26) which is set up to capture an input actuation of the test person in response to the visual or acoustic signal, wherein an output signal of the actuating and sensor device is captured as data by the data processing device and processed further for determining vitality-related data (see [0022-0041]) and the actuating and sensor device together with the output unit possess a common touch-sensitive and/or pressure-sensitive screen (see [0012-0013]) wherein the screen is mounted in a screen housing (50) with respect to a housing unit containing the data processing device in such a way that the screen housing sits on the housing unit at at least one predetermined angle (Fig. 3). However, Gruber does not explicitly teach that the screen is mounted foldably with respect to the housing unit such that in an operating state the screen housing sits on the housing unit preferably lockably at at least one predetermined angle and in a non-operating state the screen housing lies by its flat screen side on a flat face of the housing unit.

Winkler teaches a portable computer apparatus (10) with an articulating display panel. The device includes a touch-sensitive screen (16) and a data processing unit

("computer circuitry", col. 6 lines 28-32) for processing data received by the screen. The screen is mounted in a screen housing (80,82) foldably with respect to a housing unit (12) containing the data processing device in such a way that in an operating state the screen housing sits up on the housing unit lockably at at least one predetermined angle (see Fig. 8) and in a non-operating state the screen housing lies by its flat screen side on a flat face of the housing unit (see Fig. 1). Winkler teaches that configuration of a computer with a the foldable screen gives the device a smaller transportation size while also protecting the screen during transportation and storage (see col. 5 lines 25-30) among other benefits. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the device of Gruber by making the device with a foldable screen so the screen could be angled for viewing while allowing the screen to be folded down so the overall device size to be reduced for transportation and to protect the screen during transportation/storage as taught by Winkler.

In reference to Claim 16

Gruber in view of Winkler teaches the device of claim 15 (see above) and Winkler teaches the housing unit is constructed in the form of a flat housing on which at an end or edge a bracket unit (64, 66, 68) pivotably connected to the screen housing is hinged.

In reference to Claim 17

Gruber in view of Winkler teaches the device of claim 16 (see above) and Winkler teaches that the bracket unit is constructed in such a way that in the non-operating state it lies on a rear side of the screen housing (see Figs. 1 and 8).

In reference to Claim 25

Gruber in view of Winkler teaches the device of claim 15 (see above) and Gruber teaches the data processing device for controlling the actuating and sensor device together with the output unit is constructed in such a way that the output unit produces a visually visible signal on a subdomain of the pressure-sensitive screen and the actuating and sensor device is constructed for detecting a touch on the subdomain by the test person (see Fig. 2 and at least [0017-0031]).

In reference to Claim 26

Gruber in view of Winkler teaches the device of claim 25 (see above) and Gruber teaches the data processing device is constructed for detecting and evaluating a sequence of touches on a plurality of subdomains in response to the display of a corresponding plurality of visually visible signals on the screen (see [0030-0031]).

In reference to Claim 27

Gruber in view of Winkler teaches the device of claim 15 (see above) and Gruber teaches the data processing device is constructed for reproducing a preferably animated audio, text and/or image presentation for operator guidance on the screen which is activatable in response to a touch on a predetermined subdomain on the screen by the test person (see [0018]).

In reference to Claim 28

Gruber in view of Winkler teaches the device of claim 15 (see above) and Gruber further teaches the data processing device possesses means for data communication with a server unit connectable via a public data transmission network (see [0019]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN PANI whose telephone number is (571)270-1996. The examiner can normally be reached on Monday-Friday 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP 3/10/09

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736

